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ARIZONA ATTORNEY GENERAL

The Honorable Richard Kimball
Arizona State Senator
State Capitol, Senate Wing
Phoenix, Arizona 85007

Re: I82-026 (R82-023)

Dear Senator Kimball:

You have asked two questions relating to the effective date of Senate Bill 1100. That bill, among other things, concerns the imposition of a state license tax on gasoline. It establishes a license tax of ten cents per gallon to be assessed from and after June 30, 1982, with additional incremental increases on later dates.

Your first question asks whether because Senate Bill 1100 contains an emergency clause, the legislation must be implemented immediately. This question apparently is based on the premise that the bill contains both a delayed effective date clause and an emergency clause; under the authority of Industrial Comm'n v. Frohmiller, 60 Ariz. 464, 140 P.2d 219 (1943), the delayed effective date would be rendered ineffective. We think Senate Bill 1100 does not contain both a delayed effective date clause and an emergency clause, so that Industrial Comm'n v. Frohmiller is not applicable.^{1/}

1. In Industrial Comm'n v. Frohmiller, the bill under examination contained two separate sections: section 64 provided that the effective date of the legislation would be July 1, 1943; section 66 contained an emergency clause which stated the bill would take effect upon its passage. Because the bill was passed on March 6, 1943, a dispute arose as to the date the Legislature intended to be the actual effective date. Further complicating the situation was the existence of an appropriation, which apparently had been made to cover costs related to operation of the legislation between the time of the emergency enactment and July 1, 1943.

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Senate Bill 1100 sets up a graduated schedule for an increase in gas tax rates. The emergency clause indicates that the bill shall be effective immediately upon its passage. No contrary statement exists with respect to the effective date of the legislation. Legislation may be immediately effective notwithstanding the fact that certain events are mandated to take place at future dates. To conclude otherwise would preclude the Legislature from enacting legislation structured to respond to future needs and circumstances.

Your second question asks us to comment on the constitutionality of the legislation. Inasmuch as we have a duty to uphold state laws, we will issue an opinion on this subject only when a statute appears to be patently unconstitutional. Senate Bill 1100, in our opinion, is not patently unconstitutional.

Sincerely,



BOB CORBIN
Attorney General

BC/LPS/lm